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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/607,730

06/27/2003

Roger H. Bruning

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EXAMINER

MOSSER, ROBERT E

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/607,730	Applicant(s) BRUNING ET AL.	
	Examiner Robert Mosser	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Official notice

Official notice stating that "using a spreadsheet application as an analysis module to perform a statistical analysis is old and well known in the art" was presented in the Office action of May 22nd, 2006.

Official notice stating that "obtaining data related to site usage or site performance and transmitting said data to a second client computer is old and well known in the art" was presented in the Office action of May 22nd, 2006.

Neither of these statements were objected by the Applicant in their subsequent reply entered October 10th, 2006 and are now therefore considered Applicant admitted prior art.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims **18-50** are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for - the submission of the learners response and justification- (Applicant's specification page 10), does not reasonably provide enablement for - the concurrent submission of the learners response and justification-. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in

scope with these claims. The Applicant's inclusion of the this concurrent transfer of information was not originally provided for in the specification as so claimed, accordingly represents new matter not provided for in the specification as originally filed.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims **18-50** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "concurrently" in claims 18, 33, and 41 is a relative term which renders the claim indefinite. The term "concurrently" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. There is no basis in the applicant's disclosure as filed to determine to what extent the concurrent actions are performed and specifically to determine if the concurrent actions are carried out in parallel, as individual series of operations, or as a pattern of inter-related steps. For the purposes of prosecution the terms concurrent/concurrently have been interpreted to encompass the submission of data related items within the same time window.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **18-21, 23-28, 31-35, 37-39 and 41-49** are rejected under 35

U.S.C. 102(e) as being anticipated by Bajer et al (US 6,736,642) herein after referenced as Bajer.

Claims **18-19, and 41-42**: Bajer teaches a system for teaching critical thinking skills to students(learner) in a computer environment (Abstract) including:

a content module operable to receive, store, and present informational content to a student (Col 3:63-4:15);

a query module operable to receive, store, and present question to a student and further operable to receive and student responses and justifications of said responses wherein the student responses and their respective justification are submitted concurrently(Figures 8A, 8B);

a coach module operable to provide said student with information to assist the student in forming their responses and respective justifications (Elm 614, Col 13:49-53);

an analysis module operable to analyze the student responses and respective justifications and present the results of the analysis to the student (Col 15:32-36; 16:18-27);

a reference module to store and provide reference material to the student (Elm 616 Figure 6);

an expert module to receive and store and expert's answers and justifications in addition to provide said expert's answers and justifications to the student (Col 11:47-63); and

an interface operable to provide an connection between the student and said system (Figure 1).

Claims 20-21, 23, and 46: Bajer teaches an interaction module including a record of the user's interaction further comprising a transcript generated by the students interaction , student responses, and justification, the interaction of a plurality of students and/or a expert to review the responses and provide feed-back to learner who generated the responses on said learner's progress (Col 16:24-34).

Claims 24-27: Bajer teaches a collection of authoring tools and interface that allow the author to select a plurality of modules/objects operable to enable the author to select the information provided to the learner, features included and what information the author will receive concerning the learner's answers and justifications (Col 4:18-9:63).

Claim 28: Bajer describes a module for storing content query, and expert information as programming objects (Col 5:42-47) capable of containing tables, files, and user defined data types.

Claims 31, 38-39, and 44: Bajer teaches providing informational content and a query as part of a first electronic page and a result as part of a second electronic page (Figures 4-5, Elm 890, Col 12:34-13:22).

Claim 32: Bajer teaches the utilization of Hypertext Markup Language (html) instructions for the creation of modules (Col 8:42-9:64).

Claim 33-35, and 43: Bajer teaches the software components as taught above in the rejection of at least claim 29 and further sets forth for the use of a computer connected to a network/internet (Figure 1) for allowing the transfer of the program aspects of the invention between a client and a company (equivalently understood as a server) (Col 8:42-49).

Claim 37: Bajer teaches the recording of a transcript of the training session in addition to multiple computer readable code devices enabling the operation for the disclosed software training system including the transfer of informational content, questions, expert answers, and justifications (Figure 1, Col 3:61-4:15; 16:24-27).

Claim 45: Bajer teaches allowing a user to enter a response (justification) and a justification (validation) in a single electronic page (Figure 8b)

Claims 47-49: Bajer teaches providing informational content to a student in the form of text, audio, and/or video (Patented claim 8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **22, 29-30, 36, 40, and 50** are rejected under 35 U.S.C. 103(a) as being unpatentable over by Bajer et al (US 6,736,642) herein after referenced as Bajer.

Claim **22, and 36**: The prior art of Bajer discusses the inclusion of group discussions between multiple learners utilizing client computers connected through a network (internet) as taught above however is silent regarding the use of email to facilitate communication between learners. The Examiner gives official notice that the use of email to allow communication between students/learners with access to a network linked computer is extremely old and well known in the art. Accordingly it would have been obvious to one of ordinary skill in the art at the time of invention to

have incorporated email communication between learners (students) in the system of Bajer in order to facilitate communication between learners through known computer communication mediums.

Claims 29-30: The prior art of Bajer is silent regarding further defining said analysis module as a spreadsheet application and wherein alternatively said analysis module is operable to perform statistical analysis. However, it is Applicant admitted prior art that using a spreadsheet application as an analysis module to perform a statistical analysis is old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a spreadsheet application as an analysis module into Kerwin/'691's invention, in order to facilitate information analysis.

Claim 40: Bajer is silent regarding obtaining data related to site usage or site performance and transmitting said data to a second client computer. However, it is Applicant admitted prior art that obtaining such metrics are old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate obtaining such metrics into the invention of Bajer, in order to assess site efficiency.

Claim 50: The prior art of Bajer discusses the enter of text assumptions and validations as taught above, however is arguably silent regarding allowing the use of numeric ratings. The Examiner gives official notice that the use of use of numeric ratings is extremely old and well known in the art for establishing confidence levels in student provided answers. Accordingly it would have been obvious to one of ordinary

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skill in the art at the time of invention to have incorporated use of numeric ratings in the system of Bajer in order to allow the student to quantify their confidence in their assumptions.

Response to Arguments

Applicant's arguments with respect to claims **18-50** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

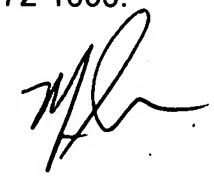
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (571)-272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


RM
May 3rd, 2007


MARK SAGER
PRIMARY EXAMINER